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8 *Representing the United States of America*

9  
 10 **UNITED STATES DISTRICT COURT**  
 11 **DISTRICT OF NEVADA**

12 **United States of America,**

13 Plaintiff,

14 v.

15 **Valerian Chiochiu,**

16 Defendant.

Case No. 2:17-cr-306-JCM-PAL

**Plea Agreement Under Fed. R.  
 Crim. P. 11(c)(1)(C)**

17  
 18 Plaintiff United States of America, by and through DAVID L. JAFFE, Chief  
 19 for the United States Department of Justice, Organized Crime and Gang Section,  
 20 KELLY PEARSON, Deputy Chief, Organized Crime and Gang Section, and CHAD  
 21 W. MCHENRY and ALEXANDER GOTTFRIED, Trial Attorneys, Organized Crime  
 22 and Gang Section, and the defendant, VALERIAN CHIOCHIU, and the defendant's

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1 attorney, ALAN EISNER, ESQ., respectfully submit this Plea Agreement under Fed.  
2 R. Crim. P. 11(c)(1)(C):

3 **I. SCOPE OF AGREEMENT**

4 The parties to this Plea Agreement are the United States of America and  
5 VALERIAN CHIOCHIU (the defendant). This Plea Agreement binds the defendant  
6 and the United States Department of Justice's Organized Crime and Gang Section.

7 If the Court accepts this Plea Agreement, it will also bind the Court under  
8 Fed. R. Crim. P. 11(c)(1)(C). It does not bind any other prosecuting, administrative,  
9 or regulatory authority.

10 The Plea Agreement sets forth the parties' agreement regarding criminal  
11 charges referenced in the Plea Agreement and applicable sentences, fines,  
12 restitution, and forfeiture.

13 **II. DISPOSITION OF CHARGES AND WAIVER OF TRIAL RIGHTS**

14 A. Guilty Plea. The defendant knowingly and voluntarily agrees to plead  
15 guilty to the following charge as set forth in the Second Superseding Criminal  
16 Indictment returned by the grand jury on January 30, 2018, ECF No. 303:

17 COUNT ONE: Conspiracy to Engage in a Racketeer Influenced  
18 Corrupt Organization, in violation of 18 U.S.C. §§ 1962(d) and 1963.

19 The defendant also agrees to the imposition of the in personam criminal  
20 forfeiture money judgment as set forth in the Plea Agreement, the Bill of Particulars,  
21 and the Forfeiture Allegation of the Second Superseding Criminal Indictment.  
22

1       B.    Waiver of Trial Rights. The defendant acknowledges that he has been  
2 advised and understands that by entering a plea of guilty he is waiving – that is,  
3 giving up – certain rights guaranteed to all defendants by the laws and the  
4 Constitution of the United States. Specifically, the defendant is giving up:

5               1.     The right to proceed to trial by jury on all charges, or to a trial  
6 by a judge if the defendant and the United States both agree;

7               2.     The right to confront the witnesses against the defendant at such  
8 a trial, and to cross-examine them;

9               3.     The right to remain silent at such a trial, with assurance that his  
10 silence could not be used against him in any way;

11              4.     The right to testify in his own defense at such a trial if he so  
12 chooses;

13              5.     The right to compel witnesses to appear at such a trial and testify  
14 on the defendant's behalf; and

15              6.     The right to have the assistance of an attorney at all stages of  
16 such proceedings.

17       C.    Withdrawal of Guilty Plea. The defendant will not seek to withdraw his  
18 guilty plea after he has entered it in court unless the Court declines to accept the  
19 parties' binding agreement. See Fed. R. Crim. P. 16(c)(5)(B).

20       D.    Additional Charges. The United States agrees not to bring any  
21 additional charges against the defendant arising out of the defendant's participation  
22 in conduct described in the agreed-upon factual basis for this Plea Agreement, to the

1 extent that the defendant has disclosed such participation to the Organized Crime  
2 and Gang Section of the United States Department of Justice (hereinafter  
3 collectively referred to as "this Office") as of the date of this Agreement, except that  
4 the United States reserves the right to prosecute the defendant for any criminal tax  
5 violations, including conspiracy to commit such violations, chargeable under 18  
6 U.S.C. § 371.

### 7 **III. ELEMENTS OF THE OFFENSE**

8 **COUNT ONE:** The elements of Conspiracy to Engage in a Racketeer  
9 Influenced Corrupt Organization, in violation of 18 U.S.C. § 1962(d) are:

10 1. First, that there was an agreement among two or more persons to  
11 participate in an enterprise that would affect interstate commerce through a pattern  
12 of racketeering activity;

13 2. Second, that defendant knowingly and willfully became a member of  
14 that agreement; and

15 3. Third, that the defendant or another member of the conspiracy agreed  
16 to commit two racketeering acts.

### 17 **IV. FACTS SUPPORTING GUILTY PLEA**

18 A. The defendant will plead guilty because he is, in fact and under the law,  
19 guilty of the crimes charged.

20 B. The defendant acknowledges that if he elected to go to trial instead of  
21 pleading guilty, the United States could prove his guilt beyond a reasonable doubt  
22 and by preponderance of the evidence establish its right to forfeit the specified

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1 property. The defendant further acknowledges that his admissions and declarations  
2 of fact set forth below satisfy every element of the charged offenses.

3 C. The defendant waives any potential future claim that the facts he  
4 admitted in this Plea Agreement were insufficient to satisfy the elements of the  
5 charged offense.

6 D. The defendant understands, acknowledges, and agrees that the facts  
7 set forth below are only those necessary to support a plea of guilty to the charge  
8 described in this agreement and to establish the Sentencing Guidelines factors set  
9 forth in Section VI below, and that they do not capture the entirety of his conduct,  
10 criminal or otherwise, in this case. The defendant admits and declares under penalty  
11 of perjury that the facts set forth below are true and correct:

12 1. From on or about October 1, 2010, through on or about February  
13 1, 2018, in the District of Nevada and elsewhere, defendant **CHIOCHIU** and his  
14 codefendants, including others known and unknown, were members of, employed by,  
15 and associated with the Infraud Organization described below, an enterprise  
16 engaging in, and the activities of which affected interstate and foreign commerce,  
17 and unlawfully and knowingly conducted and participated, directly and indirectly,  
18 in the conduct of the affairs of the Infraud Organization through a pattern of  
19 racketeering activity described below:

20 a. The Infraud Organization was a criminal enterprise that  
21 existed to enrich its members and associates through acts of identity theft and  
22 financial fraud, including, but not limited to: acts involving trafficking in stolen

1 means of identification; trafficking in, producing, and using counterfeit identification  
2 documents; identity theft; trafficking in, producing, and using unauthorized and  
3 counterfeit access devices; bank fraud; and trafficking in the services associated with  
4 the use of unauthorized counterfeit access devices; and which activities interfered  
5 with interstate and foreign commerce. The Infraud Organization facilitated the sale  
6 of contraband by its members, including counterfeit documents, stolen bank account  
7 and credit account information, and stolen personal identifying information.  
8 Members and associates of the Infraud Organization operated throughout the world  
9 and the United States, to include Las Vegas, Nevada.

10           b.     From on or about October 1, 2010 to on or about February  
11 6, 2018, the Infraud Organization was responsible for the sale and/or purchase of  
12 over 4 million compromised credit and debit card numbers. The actual financial loss  
13 associated with the Infraud Organization was in excess of \$568 million USD. The  
14 victims of the Infraud Organization include MasterCard, Visa, American Express,  
15 and Discover Card corporations, in addition to countless financial institutions  
16 located in the United States.

17           c.     The purposes of the Infraud Organization included: to  
18 enrich its members and associates through the unlawful trafficking in means of  
19 identification, document-making implements, counterfeit identification documents,  
20 device-making equipment, and unauthorized and counterfeit access devices; to  
21 establish the Infraud Organization as the premier online destination for the  
22 purchase and sale of stolen property and other contraband, such as victims' personal

1 and financial means of identification; to educate members in obtaining and using  
2 such property and contraband; to direct traffic, primarily through advertising and  
3 member feedback, to member owned and/or operated automated vending sites  
4 ("AVSes") and other websites to generate illicit proceeds, thereby promoting the  
5 Infraud Organization as the premier online source of reputable contraband vendors;  
6 to protect the Infraud Organization and its members from detection, apprehension,  
7 and prosecution by law enforcement; to preserve and protect Infraud operations and  
8 profits through the use of discipline, expulsion, and other acts of retribution; and to  
9 preserve and protect the reputation, operations, and profits of the enterprise through  
10 discipline, expulsion, and other acts of retribution against non-conforming members.

11 d. Members of the Infraud Organization trafficked in,  
12 produced, and transferred counterfeit identification documents; possessed  
13 document-making implements; transferred, possessed, and used means of  
14 identification of another person in the commission of and in connection with bank  
15 fraud affecting interstate and foreign commerce; possessed fifteen (15) or more  
16 counterfeit and unauthorized access devices affecting interstate and foreign  
17 commerce; trafficked in and possessed device-making equipment affecting interstate  
18 and foreign commerce; planned schemes to unlawfully obtain money and property  
19 from banks and other financial institutions by way of fraud and material  
20 misrepresentations and promises; and utilized the personal identifying information  
21 of victims in the forgery and false use of passports and other identification  
22 documents and authentication features.

1 e. Members of the Infraud Organization used various means  
2 to communicate, complete transactions, and establish connections, all of which were  
3 designed to protect the membership's anonymity, evade detection and prosecution  
4 by law enforcement, and provide security for the criminal organization against  
5 attacks by other rival criminal organizations, including the use of: various website  
6 forums controlled by the Infraud Organization, as online gathering places which  
7 provided secure meeting locations for the members of the criminal enterprise;  
8 private messaging, which is a non-forum wide message sent between individual  
9 members on the criminal organization's website forums; e-mail, some of which are  
10 encrypted and password protected, or use service providers located outside of the  
11 United States; ICQ chat, which is a free instant messaging electronic communication  
12 service; proxies, which are achieved by bouncing from one computer to another to  
13 hide a member's true originating IP address; Virtual Private Networks, which are  
14 similar to proxies, but with the addition of creating an encrypted to prevent the  
15 communications within that tunnel from being intercepted and monitored; and  
16 protected drop sites in the United States and elsewhere, in the event that there was  
17 a need to transport, transfer, and receive physical contraband.

18 f. Members of the Infraud Organization have defined roles  
19 in the enterprise, including Administrator, Moderator, Reviewers, Vendors, and  
20 Members.

21 i. The Administrators of the Infraud Organization  
22 were individuals that served as a governing council for the Infraud Organization



1 who, collectively, controlled the destiny of the organization. The Administrator(s)  
2 initially seeded the Infraud Organization forum with "reputable" vendors of  
3 contraband in order to attract traffic and membership and grow the organization.  
4 They handled the day-to-day management decisions of the Infraud Organization, as  
5 well as long term strategic planning for its continued viability. They determined  
6 which individuals were permitted to become and remain members of the Infraud  
7 Organization; the functions, responsibilities and levels of access to information for  
8 all members of the organization; and the rewards accorded to members for their  
9 loyalty to the organization as well as the punishments meted out to members  
10 evidencing disloyalty to the organization. Furthermore, they decided when, how and  
11 under what circumstances to attack and retaliate against members of rival criminal  
12 organizations and their associated internet websites. The Administrator(s) were  
13 accorded full access to, and privileges on, the computer servers that hosted the  
14 Infraud Organization's websites, and, thus, had the ultimate responsibility for the  
15 physical administration, maintenance, and security of those servers and websites.

16                   ii. Super Moderators oversaw and administered one  
17 or-more subject-matter specific areas on the Infraud Organization's forum that  
18 either fell within an area of their expertise or covered their geographic location,  
19 limiting their activities to editing and deleting posts by members on these forums  
20 and mediating disputes. Super Moderators frequently served as reviewers for  
21 particular products or services with which they had an expertise.

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1                   iii. Moderators, like Super Moderators, oversaw and  
2 administered one or more subject-matter specific areas on the Infraud  
3 Organization's forum that either fell within an area of their expertise or covered  
4 their geographic location. However, Moderators tended to be more limited in the  
5 authority they were granted, and were generally limited to moderating one or two  
6 specific sub-forums.

7                   iv. Vendors sold illicit products and services to  
8 members of the Infraud Organization. These sales could occur through the vendor's  
9 own website to which would-be purchasers were directed by the advertisements they  
10 paid for and placed on the Infraud Organization's web forum. Such sales could also  
11 occur directly between the vendor and customer, *i.e.* via email, private message, or  
12 ICQ chat. Products sold by vendors were reviewed on the forum by Infraud members  
13 to ensure that vendors of low-quality goods did not remain in business with the  
14 Infraud Organization. This helped cement the organization's reputation as a  
15 premiere online destination for safe, high-quality, and readily available fraud-  
16 related contraband.

17                  v. VIP Members were some of the premiere members  
18 of the Infraud Organization. The leaders of the organization bestowed this title upon  
19 longstanding or otherwise notable members in order to distinguish them from the  
20 general membership and from vendors.

21                  vi. Members of the Infraud Organization typically  
22 used the organization's websites to gather and provide information about

1 perpetuating criminal activity; to share information with and solicit other members  
2 to engage in their criminal schemes; to use the website's vendor to facilitate their  
3 unlawful purchases of credit card dumps, false identification documents, and other  
4 contraband; and to have their individual disputes with other organization members  
5 settled by the Administrators or Moderators.

6 g. On or about December 19, 2012, defendant **CHIOCHIU**  
7 joined the Infraud Organization using the nic "Onassis." **CHIOCHIU** advised other  
8 members of the Infraud Organization on the creation and use of malicious computer  
9 software, commonly referred to as "malware," that may be used to surreptitiously  
10 exfiltrate sensitive data from infected computers. In addition to these discussions,  
11 **CHIOCHIU** authored a strain of malware dubbed "FastPOS" by the computer  
12 security community. **CHIOCHIU** facilitated the use by Infraud Organization  
13 members, and others, of that malware, and of other unlawful means, to harvest and  
14 take without the true owners' permission credit card account numbers and other  
15 access device data. **CHIOCHIU** knew that said unlawfully obtained data would then  
16 be sold to Infraud Organization members, and others, through the use of automated  
17 vending sites and direct correspondence with individual customers. Using the  
18 proceeds of this facilitation, **CHIOCHIU** also fraudulently purchased gift cards,  
19 which he was then able to convert to monetary proceeds through the use of an online  
20 gift card selling platform, obtaining in excess of \$1 million USD in this fashion.

21 i. During the course of this activity, in the Federal  
22 District of Nevada and elsewhere, and in furtherance of the Infraud Organization's

1 criminal enterprise, defendant **CHIOCHIU**, on multiple occasions: a) knowingly and  
2 with the intent to defraud, produced, used, or trafficked in one or more counterfeit  
3 access devices; b) knowingly and with the intent to defraud, trafficked in or used one  
4 or more unauthorized access devices during any one-year period and by such conduct  
5 obtained anything of value aggregating \$1,000 or more during that period; c)  
6 knowingly and with intent to defraud, possessed fifteen (15) or more counterfeit or  
7 unauthorized access devices; and d) without the authorization of the issuer of the  
8 access device, knowingly and with the intent to defraud, solicited persons for the  
9 purposes of offering an access device or selling information regarding or an  
10 application to obtain an access device.

11           h.     On March 28, 2017, **CHIOCHIU** surrendered himself to  
12 the government, by earlier agreement, on the arrest warrant that was issued  
13 pursuant to the Indictment in the above-captioned case. As a part of that agreement,  
14 he brought with him and provided the government two computer hard drives and  
15 one iPhone that had been used to commit the crimes with which he was charged.  
16 However, the night before he turned himself in, he factory reset the iPhone and used  
17 counter-forensic software called "CCleaner" to surgically wipe the hard drives,  
18 destroying substantial amounts of digital evidence pertaining to his criminal  
19 conduct, and rendering any such deleted data incapable of forensic recovery.  
20 **CHIOCHIU** left intact a large amount of innocuous data on both drives, such as  
21 family photographs, various software applications and operating system data, and  
22 personal documents, in an attempt to mask his targeted destruction of evidence.

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1                   i.       As part of the conspiracy, defendant **CHIOCHIU** agreed  
2 that he or a co-conspirator would engage in two or more racketeering acts, including  
3 violations of 18 U.S.C. § 1028(a)(1) (Trafficking in and Production of False  
4 Identification Documents); 18 U.S.C. § 1028(a)(5) (Unlawful Possession of an  
5 Authentication Feature); 18 U.S.C. § 1028(a)(7) (Unlawful Transfer, Possession or  
6 Use of a Means of Identification for an Unlawful Activity); 18 U.S.C. § 1029(a)(3)  
7 (Possession of 15 or More Unauthorized Access Devices); 18 U.S.C. § 1029(a)(4)  
8 (Trafficking in and Possession of Access Device-Making Equipment); 18 U.S.C. §  
9 1343 (Wire Fraud); 18 U.S.C. § 1344 (Bank Fraud); and 18 U.S.C. § 1543 (Forgery  
10 and False Use of a Passport).

11                   2.       Defendant **CHIOCHIU** expressly admits that: 1) a loss amount  
12 of \$568,000,000.00 USD is attributable to the defendant for conspiring with  
13 members of the enterprise; 2) the offense, Conspiracy to Engage in a Racketeer  
14 Influenced Corrupt Organization, involved more than 10 victims; 3) a substantial  
15 part of the offense of Conspiracy to Engage in a Racketeer Influenced Corrupt  
16 Organization was conducted overseas and otherwise used sophisticated means; and  
17 4) the offense, Conspiracy to Engage in a Racketeer Influenced Corrupt  
18 Organization, involved possession and use of device-making equipment, and the  
19 production of and trafficking in unauthorized and counterfeit access devices.

20                   3.       The defendant admits the in personam criminal forfeiture money  
21 judgment amount listed in Section X is (1) any interest acquired or maintained in  
22 violation of Title 18, United States Code, Section 1962; (2) any interest in; security

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1 of; claim against; or property or contractual right of any kind affording a source of  
2 influence over; any enterprise established, operated, controlled, conducted, or  
3 participated in the conduct of, in violation of Title 18, United States Code, Section  
4 1962; (3) any property constituting, or derived from, any proceeds obtained, directly  
5 or indirectly, from racketeering activity in violation of Title 18, United States Code,  
6 Section 1962; (4) any personal property used or intended to be used to commit the  
7 violations of Title 18, United States Code, Section 1028; (5) any personal property  
8 used or intended to be used to commit the violations of Title 18, United States Code,  
9 Section 1029; (6) any property, real or personal, which constitutes or is derived from  
10 proceeds traceable to violations of Title 18, United States Code, Sections 1028, 1029,  
11 1343, 1344, and 1543, specified unlawful activities as defined in Title 18, United  
12 States Code, Sections 1956(c)(7)(A) and 1961(1)(B), or Title 18, United States Code,  
13 Section 1962(c) and (d), conspiracy to commit such offenses; (7) any property  
14 constituting, or derived from, proceeds obtained directly or indirectly, as the result  
15 of violations of Title 18, United States Code, Sections 1343 and 1344, affecting a  
16 financial institution, or Title 18, United States Code, Section 1962(c) and (d),  
17 conspiracy to violate such offenses; (8) any property constituting, or derived from,  
18 proceeds obtained directly or indirectly, as the result of violations of Title 18, United  
19 States Code, Sections 1028 and 1029, or Title 18, United States Code, Section 1962(c)  
20 and (d), conspiracy to violate such offenses; (9) any property real or personal that  
21 constitutes, or is derived from or is traceable to the proceeds obtained directly or  
22 indirectly from the commission of Title 18, United States Code, Sections 1028 and

1 1543, or Title 18, United States Code, Section 1962(c) and (d), conspiracy to violate  
 2 such offenses; and (10) any property real or personal that is used to facilitate, or is  
 3 intended to be used to facilitate, the commission of Title 18, United States Code,  
 4 Sections 1028 and 1543, or Title 18, United States Code, Section 1962(c) and (d),  
 5 conspiracy to violate such offenses, and is subject to forfeiture pursuant to Title 18,  
 6 United States Code, Section 1963(a)(1), (a)(2), and (a)(3); Title 18, United States  
 7 Code, Section 1028(b)(5), (g), and (h); Title 18, United States Code, Section  
 8 1029(c)(1)(C) and 1029(c)(2); Title 18, United States Code, Section 981(a)(1)(C) with  
 9 Title 28, United States Code, Section 2461(c); Title 18, United States Code, Section  
 10 982(a)(2)(A); Title 18, United States Code, Section 982(a)(2)(B); Title 18, United  
 11 States Code, Section 982(a)(6)(A)(ii)(I) with 982(a)(6)(B); Title 18, United States  
 12 Code, Section 982(a)(6)(A)(ii)(II) with 982(a)(6)(B); and Title 18, United States Code,  
 13 Section 1963(m).

14 4. Defendant **CHIOCHIU** further expressly admits that the acts  
 15 set forth above, among others: were knowingly and voluntarily committed in  
 16 furtherance of the Infraud Organization's criminal enterprise; constitute a pattern  
 17 of racketeering activity; were committed in and affecting interstate and foreign  
 18 commerce; and were done for the gain of the Infraud members, the benefit of others,  
 19 and in furtherance of the Infraud criminal enterprise.

## 20 **V. COLLATERAL USE OF FACTUAL ADMISSIONS**

21 The facts set forth in Section IV of this Plea Agreement shall be admissible  
 22 against the defendant under Fed. R. Evid. 801(d)(2)(A) at sentencing for any



purpose. If the defendant does not plead guilty or withdraws his guilty plea, the facts set forth in Section IV of this Plea Agreement shall be admissible at any proceeding, including a trial, for impeaching or for rebutting any evidence, argument, or representation offered by or on the defendant's behalf. The defendant expressly waives all rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 regarding the use of the facts set forth in Section IV of this Plea Agreement.

## VI. APPLICATION OF SENTENCING GUIDELINES (U.S.S.G.) PROVISIONS

### A. Count One: Conspiracy to Engage in a Racketeer Influenced Corrupt Organization

- |  |     |
|--|-----|
| 1. Base Offense Level [U.S.S.G. § 2B1.1(a)(1)]:  | 7   |
| 2. Specific Offense Characteristics:   |     |
| More than \$550,000,000<br>in loss [U.S.S.G. § 2B1.1(b)(1)(P)]:  | +30 |
| Offense involves more than 10 victims<br>[U.S.S.G. § 2B1.1(b)(2)(A)]:  | +2  |
| Substantial part of offense conducted<br>overseas and otherwise used sophisticated<br>means [U.S.S.G. § 2B1.1(b)(10)]:   | +2  |
| Offense involved possession and use of<br>device-making equipment, and production<br>and trafficking of unauthorized and counterfeit<br>access devices [U.S.S.G. §§ 2B1.1(b)(11)(A), (B)]: | +2  |
| 3. Adjusted Offense Level:   | 43  |

The defendant acknowledges that the statutory maximum sentence and any statutory minimum sentence limit the Court's discretion in determining the defendant's sentence notwithstanding any applicable Sentencing Guidelines



1 provisions. The defendant understands that although the United States agrees  
2 recommend a prison sentence of no greater than eleven (11) years, the Court may  
3 defer a decision whether to accept or reject the Plea Agreement until the Court has  
4 reviewed the presentence report, in which the United States Probation Office will  
5 independently calculate the defendant's offense level under the Sentencing  
6 Guidelines.

7       B. Reduction of Offense Level for Acceptance of Responsibility. Under  
8 U.S.S.G. § 3E1.1(a), the United States will recommend that the defendant receive a  
9 two-level downward adjustment for acceptance of responsibility unless he: (a) fails  
10 to truthfully admit facts establishing a factual basis for the guilty plea when he  
11 enters the plea; (b) fails to truthfully admit facts establishing the amount of  
12 restitution owed when he enters his guilty plea; (c) fails to truthfully admit facts  
13 establishing the forfeiture allegations when he enters his guilty plea; (d) provides  
14 false or misleading information to the United States, the Court, Pretrial Services, or  
15 the Probation Office; (e) denies involvement in the offense or provides conflicting  
16 statements regarding his involvement or falsely denies or frivolously contests  
17 conduct relevant to the offense; (f) attempts to withdraw his guilty plea; (g) commits  
18 or attempts to commit any crime; (h) fails to appear in court; (i) violates his  
19 conditions of pretrial release; or (j) commits any act which could result in the United  
20 States seeking an obstruction of justice enhancement within the meaning of U.S.S.G.  
21 § 3C1.1.

1 Under U.S.S.G. § 3E1.1(b), if the Court determines that the Defendant's total  
2 offense level, before operation of § 3E1.1(a), is 16 or higher, and if the United States  
3 recommends a two-level downward adjustment pursuant to the preceding  
4 paragraph, the United States will move for an additional one-level downward  
5 adjustment for acceptance of responsibility before sentencing because the  
6 defendant communicated his decision to plead guilty in a timely manner that  
7 enabled the United States to avoid preparing for trial and to efficiently allocate its  
8 resources.

9 C. Criminal History Category. The defendant acknowledges that the  
10 Court may base his sentence in part on the defendant's criminal record or criminal  
11 history. The Court will determine the defendant's Criminal History Category under  
12 the Sentencing Guidelines, and the Criminal History Category could result in an  
13 increase in the advisory guideline range.

14 D. Relevant Conduct. The Court may consider any counts dismissed  
15 under this Plea Agreement and all other relevant conduct, whether charged or  
16 uncharged, in determining the applicable Sentencing Guidelines range and whether  
17 to depart from that range.

18 E. Additional Sentencing Information. The stipulated Sentencing  
19 Guidelines calculations are based on information now known to the parties. The  
20 parties may provide additional information to the United States Probation Office  
21 and the Court regarding the nature, scope, and extent of the defendant's criminal  
22 conduct and any aggravating or mitigating facts or circumstances. Good faith efforts

1 to provide truthful information or to correct factual misstatements shall not be  
2 grounds for the defendant to withdraw his guilty plea.

3 The defendant acknowledges that the United States Probation Office may  
4 calculate the Sentencing Guidelines differently and may rely on additional  
5 information it obtains through its investigation. The defendant also acknowledges  
6 that the Court may rely on this and other additional information as it calculates the  
7 Sentencing Guidelines range and makes other sentencing determinations, and the  
8 Court's reliance on such information shall not be grounds for the defendant to  
9 withdraw his guilty plea.

## 10 VII. APPLICATION OF SENTENCING STATUTES

### 11 A. Maximum Penalty.

12 Count One. The maximum penalty for Conspiracy to Engage in a  
13 Racketeer Influenced Corrupt Organization, in violation of 18 U.S.C. §§ 1962(d) and  
14 1963, is not more than twenty (20) years in prison, a fine of not more than two  
15 hundred and fifty thousand dollars (\$250,000), or both a fine and imprisonment.

16 B. Factors Under 18 U.S.C. § 3553. The Court must consider the factors  
17 set forth in 18 U.S.C. § 3553(a) in determining the defendant's sentence. However,  
18 the statutory maximum sentence and any statutory minimum sentence limit the  
19 Court's discretion in determining the defendant's sentence.

20 C. Parole Abolished. The defendant acknowledges that his prison sentence  
21 cannot be shortened by early release on parole because parole has been abolished.  
22

1       D.   Supervised Release. In addition to imprisonment and a fine, the  
2 defendant will be subject to a term of supervised release not to exceed three (3) years  
3 as to Count One. Supervised release is a period of time after release from prison  
4 during which the defendant will be subject to various restrictions and requirements.  
5 If the defendant violates any condition of supervised release, the Court may order  
6 the defendant's return to prison for all or part of the term of supervised release,  
7 which could result in the defendant serving a total term of imprisonment greater  
8 than the statutory maximum prison sentence.

9       E.   Special Assessment. The defendant will pay a one-hundred dollar  
10 (\$100.00) special assessment per count of conviction at the time of sentencing.

11       F.   Additional Costs. The defendant is required to pay for the costs of  
12 imprisonment, probation, and supervised release, including the costs for electronic  
13 monitoring of home detention, unless the defendant establishes that the defendant  
14 does not have the ability to pay such costs, in which case the Court may impose an  
15 alternative sanction such as community service.

#### 16 **VIII. POSITIONS REGARDING SENTENCE**

17       This Plea Agreement is governed, in part, by Federal Rule of Criminal  
18 Procedure 11(c)(1)(C). That is, the parties have agreed that the sentence imposed  
19 by the Court shall include a term of imprisonment of not more than 11 years (132  
20 months) in the custody of the Bureau of Prisons. Because this plea is offered pursuant  
21 to Federal Rule of Criminal Procedure 11(c)(1)(C), if the Court accepts the plea  
22

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1 agreement, the Court may not impose a greater sentence than that agreed by the  
2 parties in this plea agreement.

3 The Court may accept this agreement, reject it, or defer a decision until the  
4 Court has reviewed the presentence report. If the Court accepts and agrees to not  
5 impose a sentence of greater than 11 years' (132 months) imprisonment, defendant may  
6 not withdraw this plea as a matter of right under Federal Rule of Criminal Procedure  
7 11(d). If, however, the Court rejects the Plea Agreement, or otherwise refuses to accept  
8 defendant's plea of guilty, either party shall have the right to withdraw from this Plea  
9 Agreement. The Court will advise the defendant that if the Court rejects the guilty  
10 plea, and his plea of guilty is not withdrawn, the disposition of the case may be less  
11 favorable than that contemplated by this plea agreement.

12 The defendant is free to seek any downward departure, adjustment, or  
13 variance pursuant to 18 U.S.C. § 3553 or U.S.S.G. § 4A1.3(b)(1), and the United  
14 States is free to oppose any departures, adjustments, or variances. The defendant  
15 acknowledges that the Court does not have to follow the recommendation of either  
16 party.

#### 17 **IX. RESTITUTION**

18 The defendant and the government agree, and request that the Court find on  
19 the record, that the number of victims in this case is so large as to make restitution  
20 impracticable. *See* 18 U.S.C. § 3663A(c)(3)(A). Moreover, the defendant and the  
21 government agree, and request that the Court find on the record, that determining  
22 complex issues of fact related to the cause or the amount of those victims' losses

1 would complicate or prolong the sentencing process to a degree that the need to  
2 provide restitution to any victim is outweighed by the burden of the sentencing  
3 process. *See* 18 U.S.C. § 3663A(c)(3)(B).

4 Therefore, the defendant and government agree that the Court should order  
5 in lieu of restitution a fine in the amount of \$568,000,000 pursuant to 18 U.S.C.  
6 § 3571(d). Any payments made by the defendant toward the amount of this fine shall  
7 be deposited into the Crime Victims Fund pursuant to 34 U.S.C. § 20101.

8 The defendant understands, acknowledges and agrees that he cannot  
9 discharge this fine obligation through bankruptcy proceedings. The defendant  
10 further understands, acknowledges and agrees that fine payments and obligations  
11 cannot offset or reduce the amount of any forfeiture judgment imposed in this case.

## 12 **X. FORFEITURE**

13 The defendant knowingly and voluntarily:

14 A. Agrees to the District Court imposing an in personam criminal forfeiture  
15 money judgment of \$1,548,568.77;

16 B. Agrees the in personam criminal forfeiture money judgment amount  
17 complies with *Honeycutt v. United States*, \_\_\_U.S.\_\_\_, 137 S. Ct. 1626 (2017);

18 C. Waives his right to any abandonment proceedings, any civil  
19 administrative forfeiture proceedings, any civil judicial forfeiture proceedings, or  
20 any criminal forfeiture proceedings of the in personam criminal forfeiture money  
21 judgment (proceedings);

1 D. Waives service of process of any and all documents filed in this action  
2 or any proceedings concerning the in personam criminal forfeiture money judgment  
3 arising from the facts and circumstances of this case;

4 E. Agrees not to file any claim, answer, petition, or other documents in  
5 any proceedings concerning the in personam criminal forfeiture money judgment;

6 F. Waives the statute of limitations, the CAFRA requirements, Fed. R.  
7 Crim. P. 7, 11, and 32.2, all constitutional requirements, including, but not limited  
8 to, the constitutional due process requirements of any proceedings concerning the in  
9 personam criminal forfeiture money judgment;

10 G. Waives all constitutional, legal, and equitable defenses to the in  
11 personam criminal forfeiture money judgment in any proceedings, including, but not  
12 limited to, (1) constitutional or statutory double jeopardy defenses and (2) defenses  
13 under the Excessive Fines or Cruel and Unusual Punishments Clauses of the Eighth  
14 Amendment to the United States Constitution;

15 H. Agrees to the entry of an Order of Forfeiture for the in personam  
16 criminal forfeiture money judgment to the United States;

17 I. Waives the right to appeal any Order of Forfeiture;

18 J. Agrees the in personam criminal forfeiture money judgment is  
19 immediately due and payable and is subject to immediate collection by the United  
20 States;

21 K. Agrees and understands the in personam criminal forfeiture money  
22 judgment shall not be treated as satisfaction of any assessment, fine, restitution,

1 cost of imprisonment, or any other penalty the Court may impose upon the defendant  
2 in addition to the forfeiture;

3 L. Acknowledges that the amount of the forfeiture may differ from, and  
4 may be significantly greater than or less than, the amount of restitution; and

5 M. Agrees to take all steps as requested by the United States to pass clear  
6 title of any forfeitable assets that may be used to satisfy the in personam criminal  
7 forfeiture money judgment to the United States and to testify truthfully in any  
8 judicial forfeiture proceedings. The defendant understands and agrees that the in  
9 personam criminal forfeiture money judgment amount represents proceeds and/or  
10 facilitating property of illegal conduct and is forfeitable. The defendant  
11 acknowledges that failing to cooperate in full in the disclosure of assets constitutes  
12 a breach of this Plea Agreement.

13 **XI. FINANCIAL INFORMATION AND DISPOSITION OF ASSETS**

14 Before or after sentencing, upon request by the Court, the United States, or  
15 the Probation Office, the defendant will provide accurate and complete financial  
16 information, submit sworn statements, and/or give depositions under oath  
17 concerning his assets and his ability to pay. The defendant will surrender assets he  
18 obtained directly or indirectly as a result of his crimes, and will release funds and  
19 property under his control in order to pay any fine, forfeiture, or restitution ordered  
20 by the Court.

21 **XII. THE DEFENDANT'S ACKNOWLEDGMENTS AND WAIVERS**

22 A. Plea Agreement and Decision to Plead Guilty. The defendant



1 acknowledges that:

2           1.     He has read this Plea Agreement and understands its terms and  
3 conditions;

4           2.     He has had adequate time to discuss this case, the evidence, and  
5 this Plea Agreement with his attorney;

6           3.     He has discussed the terms of this Plea Agreement with his  
7 attorney;

8           4.     The representations contained in this Plea Agreement are true  
9 and correct, including the facts set forth in Section IV; and

10          5.     He was not under the influence of any alcohol, drug, or medicine  
11 that would impair his ability to understand the Agreement when he considered  
12 signing this Plea Agreement and when he signed it.

13           The defendant understands that he alone decides whether to plead guilty or  
14 go to trial, and acknowledges that he has decided to enter his guilty plea knowing of  
15 the charges brought against him, his possible defenses, and the benefits and possible  
16 detriments of proceeding to trial. The defendant also acknowledges that he decided  
17 to plead guilty voluntarily and that no one coerced or threatened him to enter into  
18 this Plea Agreement.

19          B.     Waiver of Appeal and Post-Conviction Proceedings. The defendant  
20 knowingly and expressly waives: (a) the right to appeal any sentence imposed within  
21 or below the applicable Sentencing Guideline range as determined by the Court;  
22 (b) the right to appeal the manner in which the Court determined that sentence on

1 the grounds set forth in 18 U.S.C. § 3742; and (c) the right to appeal any other aspect  
2 of the conviction or sentence and any order of restitution or forfeiture.

3 The defendant also knowingly and expressly waives all collateral challenges,  
4 including any claims under 28 U.S.C. § 2255, to his conviction, sentence, and the  
5 procedure by which the Court adjudicated guilt and imposed sentence, except non-  
6 waivable claims of ineffective assistance of counsel.

7 The defendant reserves only the right to appeal any portion of the sentence  
8 that is an upward departure from the sentencing guideline range determined by the  
9 Court.

10 The defendant acknowledges that the United States is not obligated or  
11 required to preserve any evidence obtained in the investigation of this case.

12 C. Removal/Deportation Consequences. The defendant understands and  
13 acknowledges that if he is not a United States citizen, then it is highly probable that  
14 he will be permanently removed (deported) from the United States as a consequence  
15 of pleading guilty under the terms of this Plea Agreement. The defendant has also  
16 been advised if his conviction is for an offense described in 8 U.S.C. § 1101(a)(43), he  
17 will be deported and removed from the United States and will not be allowed to  
18 return to the United States at any time in the future. The defendant desires to plead  
19 guilty regardless of any immigration consequences that may result from his guilty  
20 plea, even if the consequence is automatic removal from the United States with no  
21 possibility of returning. The defendant acknowledges that he has specifically  
22 discussed these removal/deportation consequences with his attorney.

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1 **XIII. ADDITIONAL ACKNOWLEDGMENTS**

2 This Plea Agreement resulted from an arms-length negotiation in which both  
 3 parties bargained for and received valuable benefits in exchange for valuable  
 4 concessions. It constitutes the entire agreement negotiated and agreed to by the  
 5 parties. No promises, agreements or conditions other than those set forth in this  
 6 agreement have been made or implied by the defendant, the defendant's attorney,  
 7 or the United States, and no additional promises, agreements or conditions shall  
 8 have any force or effect unless set forth in writing and signed by all parties or  
 9 confirmed on the record before the Court.

11 DAVID L. JAFFE  
 12 Chief, Organized Crime and Gang Section  
 13 United States Department of Justice

14 DATE: 7/27/2020

/s/ Chad McHenry

15 KELLY PEARSON  
 16 Deputy Chief, Organized Crime and Gang Section

17 CHAD W. MCHENRY  
 18 ALEXANDER GOTTFRIED  
 19 Trial Attorneys

20 DATE: 5/28/2020

Chiochiu  
 21 VALERIAN CHIOCHIU  
 22 Defendant

DATE: 7/27/2020

[Signature]  
 ALAN EISNER, ESQ.  
 Counsel for Defendant CHIOCHIU

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CERTIFICATION OF INTERPRETER

I, ADRIANA CHIRILOV, a California State Certified Interpreter/translator, am  
fluent in the writing and spoken English and Romanian languages. I accurately  
translated this entire agreement from English into Romanian to defendant  
VALERIAN CHIOCHIU on July 28, 2020.

Dated: July 29, 2020

*A Chirilov*  
SIGNATURE

**XIII. ADDITIONAL ACKNOWLEDGMENTS**

This Plea Agreement resulted from an arms-length negotiation in which both parties bargained for and received valuable benefits in exchange for valuable concessions. It constitutes the entire agreement negotiated and agreed to by the parties. No promises, agreements or conditions other than those set forth in this agreement have been made or implied by the defendant, the defendant's attorney, or the United States, and no additional promises, agreements or conditions shall have any force or effect unless set forth in writing and signed by all parties or confirmed on the record before the Court.

DAVID L. JAFFE  
Chief, Organized Crime and Gang Section  
United States Department of Justice

DATE: \_\_\_\_\_

KELLY PEARSON  
Deputy Chief, Organized Crime and Gang Section

CHAD W. MCHENRY  
ALEXANDER GOTTFRIED  
Trial Attorneys

DATE: \_\_\_\_\_

VALERIAN CHIOCHIU  
Defendant

DATE: July 28, 2020

ALAN EISNER, ESQ.  
Counsel for Defendant CHIOCHIU

*I, Adriana Chiochiu, fluent in Spanish and Romanian languages, I personally translated/interpreted this entire document, consisting of 27 pages, from English into Romanian, to defendant Valeria Chiochiu on this date (July 27/2020) Adriana Chiochiu*